

REMARKS

The issues outstanding in the Office Action mailed February 10, 2003, are the rejections under 35 U.S.C. §112, §102, §103 and the doctrine of obviousness-type double patenting. Reconsiderations of these rejections, in view of the following discussion, is respectfully requested.

Rejection Under 35 U.S.C. §112

Claims 9, 10 and 12 have been rejected under 35 U.S.C. §112, second paragraph. The dependency of claim 9 has been corrected, and it is submitted that this issue is obviated. The scope of the claims has not been changed by this amendment, either literally or for purposes of the doctrine of equivalents. Withdrawal of the rejection is therefore respectfully requested.

Rejection Under 35 U.S.C. §102

Claims 1-5 and 13-15 have been provisionally rejected under 35 U.S.C. §102(e) over copending application Serial No. 09/575,368. Reconsideration of this rejection is respectfully requested.

As noted in the obviousness-type double patenting rejection, one difference between the claims of the '268 application and the present claims is that the present application's claims are directed to a 3-layer structure as set forth in, for example, independent claim 1 herein, whereas the '368 application is principally directed to a 2-layer structure. Thus, it is submitted that the application does not *anticipate* the present claims. Moreover, the '368 application cannot support a rejection under 35 U.S.C. §102(e)/103, inasmuch as the applications were commonly owned at the time the later invention was made. Thus, it is submitted that this rejection should be withdrawn on this basis. Moreover, a verified translation of the present priority document is supplied herewith. Thus, the present application is entitled to rely on its priority date of March 31, 2000, which is prior to the 35 U.S.C. §102(e) date of May 22, 2000, of the copending application. Thus, this rejection is moot, and withdrawal thereof is respectfully requested.

Claims 1-5, and 13-15 have been rejected under 35 U.S.C. §102(a) over EP '023. Reconsideration of this rejection is also respectfully requested. It is noted that the EP is an equivalent of the '368 U.S. application. The EP was published November 22, 2000. In view of the reliance of the present application on its March, 2000 priority date, this rejection is also moot, and withdrawal thereof is respectfully requested.

Rejection Under 35 U.S.C. §103

Claims 6-12 have been provisionally rejected under 35 U.S.C. §103 over the '368 application. As noted above, common ownership of the '368 application prohibits reliance on its filing date under 35 U.S.C. §102(e)/§103, and this rejection therefore also must be withdrawn. The same is respectfully requested.

Claims 6-12 have also been rejected under 35 U.S.C. §103 over EP '023 taken with Ono et al. As noted above, the EP is not prior art against the present application, in view of the French priority date herein. Thus, withdrawal of this rejection is also respectfully requested.

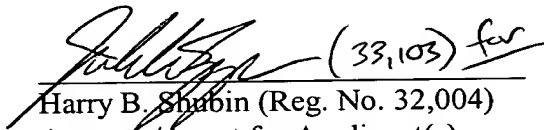
Double Patenting

Claims 1-15 have been rejected under doctrine of obviousness-type double patenting over claims 1-26 of the '368 application. The attached Terminal Disclaimer renders this rejection moot. Withdrawal thereof is also respectfully requested.

The claims of the application are submitted to be in condition for allowance. However, if the Examiner has any questions or comments, he is cordially invited to telephone the undersigned at the number indicated below.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

 (33,103) *for*
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FILED: July 10, 2003

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